

Closed Caption Log, Council Work Session, 07/31/12

>> Mayor Leffingwell: Good morning.

I'm mayor leffingwell.

Welcome back, everyone.

It's nice to be back.

So quorum is president, so I'll call this work session of the austin city council to order on tuesday, july 31, 2012.

The time is 9:10 a.m.

We're meeting in the boards and commissions room, austin city hall, 301 west 2nd street, austin, texas.

Our first item is to go into executive session, but just before we do, I'd like to say that on item b2, which we'll take up after executive session, this will be a voting item.

It is not a public hearing.

Public comment is allowed, but if there is no objection from the council, I'd like to limit the public comment to 15 minutes per side, if there is no objection.

And so, just to give advanced notice, if there is anyone who would like to sign up, you can get your speakers organized for 15 minutes for, 15 minutes against.

Councilman martinez.

>> Martinez: Thank you, mayor.

On that same item, when we come back to it, I'm going to ask a question regarding whether or not it nullifies what the council did on the 10-1 item.

My understanding is that it's drafted in a way that rescinds that action, which I'm fine with.

I just couldn't find it in the backup.

And, so, my staff was told yesterday that if this item is adopted the way it's drafted, it

[09:08:00]

rescinds what this council, the action we took on the 10-1 proposal.

So I just want to confirm that or --

>> city legal.

Just to quickly address that, today's vote is on the 821 item.

On thursday, you will see the ordinance that puts the petition on the ballot, and that ordinance does rescind your 10-1 item.

>> So thursday's vote will rescind the action that was taken.

>> Yes.

>> Martinez: Thank you so much.

--

>> Mayor Leffingwell: I'm glad, because that was news to me.

But I'm okay with it.

City council will go into closed session and take up one item security council will consult regarding item may 1, legal issues related to the november 6, 2012 election.

Is there any objection to going into executive session on this item?

Hearing none, council will now go into executive session.

[10:32:03]

Test test test test test
test

[10:38:11]

test test test
test test
graeber
test test

[10:42:53]

test test test.

we're
out of closed session, this
closed session we took up

and discussed legal issues related to item a.1.

That brings us to item b 1, which is a discussion of november 2012 election matters and potential direction to staff.

Comments.

>> Go ahead.

>> Sabine a romero, city department.

Staff has a brief presentation to begin the discussion of ballot order with all of you.

We're posted very broad ri today, discussion of november 2012 election matter and potential direction, so once staff has completed its presentation, we turn to you for feedback and any additional topics you may want to discuss this

[10:44:03]

morning.

Just to give you an overview, here is a list of bullet format what council has already passed to be on the ballot in november.

The geographic representation item 10-1 plan, council appointing the city attorney, personnel changes changes, moving the

election from may to november, also moving the election from may to november but specifying four-year terms and limiting terms to two yerls.

Changing the initiative requirements for ordinances, changing post-election requirements and the ems civil service petition.

On thursday's agenda and on next week's agenda and today's agenda are additional readings for the geographic representation 8-2-1-plan ordinance, the agr petition, council powers regarding lease of parkland and the civil item.

Next week of course is bonds.

I don't know what I hit, but now the screen is black.

There we go.

>> [Inaudible]

>> oh, that's it.

With that we welcome comments from all of you.

You have a handout that is a list of the ballot language for those items that you have already passed.

It's nothing more than the exact language pulled from the ordinances.

Again, as I mentioned, this is the beginning of the discussion because there are potentially more items on the ballot.

If you have some feedback now for what order you think you'd like to see those in, we welcome those comments and any others you might have.

well,
let's -- let's talk about the order first, I guess.

Any comments on that?

Council member morrison.

I've only had a quick chance to look at this, but I thought I'd

[10:46:01]

throw out an order, just to get us talking.

So do you -- what I'd like to suggest is that -- that we put the 10-1 item first because I think there's been a lot of discussion about that.

I think it makes sense.

That's what people are going to know this charter amendment by, so I think that makes sense.

If there were an 8-2-1 on the ballot I would also

suggest we put it following that.

I think it would make sense then also to then put the two items that address may to november following that.

So I don't know which one first, but maybe the may to november with the four-year staggered terms and then the one that's simply may to november.

Then it gets a little more complicated.

I think next I would put the emergency medical services personnel civil service law.

Then I think we could put the one regarding council appointees and the one regarding the city attorney.

And then the last two could be the one regarding the number of signatures and then lastly raising political funds.

So to me that has a certain logic to it and I just wanted to throw that out there -- what were the last two?

the last two were the number of signatures needed for a citizen initiated ordinance or referendum.

That's the second-to-last
and then the last would be

[10:48:00]

the raising of political
funds for 30 days after an
election.

and
then we have potentially two
others, potentially two
others?

as i
mentioned -- are you talking
about 8-2-1?

I would have put that off
after the 10-1.

no,
I'm talking about the ones
that aren't listed here,
civil service and
governance.

right, if we
have a civil service one i
think I would put that right
after the ems civil service,
and governance, I don't
know.

We also have the --
potentially the one that law
has parks and utilities.

So maybe those two could
go -- follow each other
perhaps at the end or i
don't know where they would
be inserted.

i
would like to make the

suggestion that we group all of the items that have to do with basically governance, council governance, together, and then that would basically move ems and potentially the civil service amendment down here to be grouped with the electric utility governance and parks.

>> Mayor?

council member martinez.

I would just politely disagree with the initial order.

For me what becomes a higher priority is moving our elections to november, and the reason why that becomes a higher priority is i believe that the council is going to put a competing geographic representation item on.

, Therefore, weakening the chances of either passing.

One may pass, but I think it weakens it.

So for me the focus now shifts from geographic representation as the highest priority to november

[10:50:00]

elections being a higher priority.

So I would prefer that the question of moving to november -- both questions, be the first two items on the ballot.

But I have a question, and the question council member tovo just asked me that i don't know the answer to, i think is an important how does the screen appear?

Do all of these provisions appear on one screen or does each provision appear on a screen individually and separately?

>> Good question.

well, there are several questions about -- there's even the order.

I mean, it's yet to be determined whether local issues are going to be first or last, and I don't know the severe weather to that question, but I do know there's a conference scheduled.

City clerk?

>> And I don't know that i can respond to how many screens it is, but I can assure you they couldn't get them all on one screen, and I seriously doubt, given the length of this ballot, that

they would individually appear on a screen.

They do have some character limitations and I can get that information for you, but I think it's somewhere in between there.

They couldn't possibly get it all on one, and I think it would be unrealistic to expect that there's going to be individual screens.

And the order the mayor is talking about is a different topic, and that is the commitment that the clerk made to you last fall was that she would put local items first on the ballot, but the conference on august 8, she's asking that is that really what you want to do?

That would be a substantial variation from what you've seen in the past where you would see the presidential items first and then on down the line.

But she wants to honor the commitment that she told you if that's what you really want.

She would do that.

But I think has concerns about how the voters would react to that.

[10:52:00]

i

think we'll have more input
on that on a special called
meeting on the 9th.

Let me just say real
quickly, I agree with
council member martinez.

I would like to see the
change from may to
november 1, and I would also
like to see the bare bones,
plain vanilla before we talk
about the more complicated
staggered.

So with that revision it
would be may to november and
then staggered may to
november, and then we could
get into the format 10-2-1,
8-2-1, whichever order, and
then go through the rest of
these governance items and
then go to city governance
items, and then get down to
the electric utility, the
parks and the two -- the
civil service item -- the
two civil service items,
potentially.

That would be my suggestion.

>> Cole: mayor?

mayor
pro tem -- excuse me, you're
next, council member tovo.

I had a quick foul
gentry
about how the item would
appear, and I know there's
no certainty here, but i

think you've given us some helpful feedback about that.

It sounds like it is pretty likely that several propositions, though, could appear on one screen, so we could, for example, see on one screen may to november.

I think the mayor called it the plain vanilla version, and may to november, the more complex version on one screen.

>> I think again that depends on what the ballot language looks like, how many words and characters there are.

I know that the county clerk is really interested in getting preliminary ballot language so she can give us some ideas of layout.

We've told her that that's, you know, a little difficult for us right now, but where possible we've given her some of the propositions you've already looked at and

[10:54:00]

what's on your agenda for your consideration, but have told her that none of that is locked in concrete yet.

So could be always subject to change.

But that's what she's working on so that she can come up with some examples of what a ballot would look like for you.

and is there some back and forth that you have with her about grouping, clustering of amendment -- of proposals?

>> No, I mean, that's strictly your decision as to what order you want them, and we can certainly give her direction as to what you would like to see, and then she will have to tell us whether she has any restrictions in the system from honoring that.

i think we'll have a better feel for how we can cluster it after we find out what her limitations are.

right, it just seems to me an interesting -- you know, an interesting thing to think about which ones we want, if we have any kind of -- mine, I by no means want to micromanage the ballot, but if there is an opportunity for clustering -- clustering some of these so they appear together, then people see what their -- you know, what the items are coming up.

I mean, I think this is an issue with surveys and other

things, if you don't know,
you know, what the --
i
agree.

especially with the
one you mentioned, the may
to november, may to november
term limit.

i
think that's good to know.

>> Let me speak to what the
statutes say.

The texas election code has
some fairly detailed
specifications about ballot
order.

The overall structure is
that the relative ballot
order of presidential and
federal elections, state
elections, district
elections, which refers to
things like district
attorney and so on, and
county elections are all
specified in an order,

[10:56:00]

relative to each other and
within each of those
categories, the various
races are ordered.

Local governments are not
part of that list per se.

There are different
provisions in the election
code in that same chapter
that say that the local

government governing body
can specify the order of its
ballot items.

And there's one caveat there
and that is that
propositions have to follow
election races for actual
officer positions, which
doesn't come up here because
we're not talking about
officer -- council elections
in this november general
election.

So you have, under the
statutes, total discretion
to order your proposition
items.

The question that shirley is
raising, at least in part,
if I understand correctly,
is the question of whether
the county clerk has
limitations or wants to
discuss -- wants to hear
from you about the offer
that was discussed back in
the spring about actually
elevating local government
ballot items, whatever they
might be, above the
presidential, federal, state
and county ballot section,
which is a real different
question.

But the question that you
are asking, council member
tovo, what discretion does
the council have to order
the city's ballot items is
clear.

You can do that in any order
that you want.

I wasn't really
talking about ordering.

I was talking about layout,
in essence, screen layout.

>> And one comment to add
there is that hays county
does use a different system
than travis county.

[10:58:02]

how
about williamson?

>> I'm sorry, I meant
williamson, you're right.

In hays county we don't have
voters.

we
don't have any voters in
hays.

We have some land in hays
but no voters.

>> At this time, correct.

Thank you.

mayor
pro tem?

mayor, I just
wanted to agree with you and
council member martinez
said, I do think the natural
order should have the may to
november 1 and the
geographic representation

second, simply because i anticipate that there will be voters that want to vote on both items for those two propositions and that that will make that a clearer way to do that.

>> Mayor leffingwell: okay.

So can we say we have preliminary direction subject to change of having may to november 1.

2 would be staggered
3, 10-1,
5 council
6 city
7 petition
8,
extending the fundraising
time 30 days.

No. 9, ems, civil service.

10, general civil
service.

11, Possibly utility
governance and 12 parks.

>> And utilities.

parks
and utilities, yeah.

>> Would you like to address
the bond items?

I know we don't know them
specifically but --

>> [inaudible]
[laughter]

>> as a cluster, since we're talking about future items as well.

since we did that one so quickly, go ahead.

>> No -- well, we don't have individual items but would you have a preference that they be the very last ones, for example?

>> [Inaudible] first impression, I think so, yeah.

>> I have one other thing I might mention as to the order that you just suggested, is that the ems item is slightly different from the others -- well, not slightly, quite a bit different from the others, in that the others are all charter amendments and that the ems item is not a charter amendment.

So there is, I guess, no theoretical reason why you couldn't mix a non-charter amendment among the charter amendments, but you might want to think about whether you want to do that -- whether you want to have a charter than the ems petition -- then the ems petition item and then the bonds as three categories, or whether you would -- as I say, I guess not a

theoretical reason why you couldn't intersperse them, but it is slightly conceptually different, the ems item from the charter items.

any objection to that approach?

I think there is a certain logic, as you say.

mayor, I just have one comment.

mayor pro tem.

that I think the bond election in particular has some advocacy aspects to it, and we may want to wait to get some outside advice about where it should be placed on the ballot.

and as I said, this is preliminary, tentative, subject to change.

All right.

>> Morrison: mayor?

council member morrison.

if I could ask staff to -- what was just outlined, if you guys could put that together and send it to us so we can take a look at it as a whole, that would be helpful.

good
idea.

and i
appreciate the input on all
of that, and it sounds, you
know, good to me.

>> Mayor leffingwell: okay.

I also agree
that the ems provision
should be separated from the
charter amendment.

>> Mayor leffingwell: yep.

That's the way we're headed
right now.

And if you wanted to we
could make it so that the
civil service --

>> we could make it so that
the civil service provision,
if that is put on the
ballot, was last among the
charter so that it was next
to --

>> ems.

>> Ems.

again,
good idea.

We'll make that tentative
change at this point.

>> Can you give it to us in
a puzzle form so we can --
[laughter]
kind

of put little tiles that you can shift around.

Okay.

Is that sufficient direction?

I think we can -- all right.

Thank you.

Yeah, I guess we do need to -- assuming city attorney, we can talk a little bit about the utility governance item to give direction.

>> Yes, mayor, item b 1 allows you to have a discussion about november 2012 election matters and any potential direction to staff, so i think that item can fit under that particular posting.

>> Mayor leffingwell: okay.

I would like to propose steiner come back to us next week, potentially for the 7th with an item that would be broad and general with regard to electric utility, governance basically under the charter giving the council the authority to make changes but not mandating.

>> Martinez: mayor?

council
-- city
manager.

>> Just for clarification,
I'm understanding that you
are by that modifying the
direction that the city
manager was given a while
ago with respect --

>> mayor leffingwell: no.

>> You are not?

I'm
not modifying that because
that process would go
forward.

>> Okay.

because
that's going to be
essential if the council
chooses to exercise the
authority, assuming that
that provision would be
approved by the voters, we
would need that background.

>> So this is additional
direction.

Additi
additi
onal direction.

I appreciate
that point because that is a
very important distinction
in that what the council has
directed the manager and
staff to embark upon could
lead to a potential action
by this council, and that's

what we're asking for in this direction, I think, is broad enough language, enabling language via the charter so that this council can adopt an ordinance changing the governance structure of the utility, should we see the benefits to that later on down the line.

and i just want to mention -- down the line.

I want to mention for public consumption, the reason for proceeding in this manner is that i, for one, I'll speak for myself, I don't think we have enough time to present a fully fleshed-out item for changing the government.

This is something we don't want to hurry.

It's very complicated.

A lot of moving parts to it, but at the same time we would like to be able to move forward on that issue, I would like to be able to move forward on that issue as soon as we can and not be forced to wait possibly two and a half years to make another charter change.

So we could -- if we have all of our ducks in a row we could proceed sooner than that.

Council member morrison?

as you mentioned, staff is doing some work right now looking into different options and things like that, and i wonder if it would be possible also, just to get sort of -- I think it would be helpful to me to get an understanding of -- as you mentioned, it's very complex -- an understanding of the kinds of things that need to be addressed in the change of a governance so that we can sort of see the different topics that we would be allowing council to change if, in fact, we have the broad authority to do that.

So it's sort of just a if it would be possible to get sort of in a nutshell what you've learned already to help us get a deeper understanding of what's involved in a shift in governance.

i think that would be very useful, describing it as a list of things that would -- examples but not all-inclusive.

There may be others.

>> Well, certainly we can share with council what we've learned so far, but understanding, as I know you

do, there's just a lot of work left -- left to be done.

We're in the early stages of that, but we're happy to share what we know already.

>> Thank you.

>> Mayor leffingwell: okay.

Thank you very much.

Is there any -- anything else we need to -- that is coming up next.

Next item.

Parks and utilities, the charter item before we leave this item, talk about that -- that's something that is yet to be developed, but we can go ahead and talk about it.

>> Andy with the city law department.

I'll talk to the utility sales amendment.

Right now article 2, section 5 of the charter prohibits the council from selling all or any substantial part of any municipal utility, either electric or water.

The difficulty with this provision is the word "

that word is not defined in the provision, and, in fact, if you look it up in the dictionary you can find at least two somewhat incompatible ways of interpreting that word.

If you look at other cities that have provisions like this, it's pretty clear that the intent of their provisions is to prevent a divestiture of the utility itself and not necessarily prohibit the sale of individual assets, and as we move forward in the future this provision may become problematic.

When it was adopted, substantial was probably easier to define when the utility was smaller, but now that the utility has gotten much larger in size it's a bit more questionable as to what is and isn't substantial.

So what we've brought forward are five different scenarios for you to look at that would help address this issue.

There's a number of routes you could go.

The first option that we presented and probably the -- from a legal standpoint the cleanest is to keep in place the ban on selling all or any

substantial part of the utility but allow the council the authority to make a case by case determination regarding individual assets as to whether or not that asset is indeed necessary for the utility to operate, and you could do that by a two-thirds majority vote.

That would allow -- you know, again it would keep -- it would keep in place the ban on divesting utility but it would allow the council the ability to bring some certainty as to a particular transaction.

Option 2 is -- is similar to option 1.

The council would make the finding that the asset is not necessary for utility operations but then if there were still questions about whether the item were substantial, it would allow for the election to be held for the voters to authorize the sale.

Option 3 is a combination of one or two.

Either council could make the determination or the issue could go to the voters.

The fourth option is a default to what's currently the state law, which is that

you cannot sell a utility
without a vote.

So this -- option 4 would
essentially be writing that
law into the charter.

It would also allow the city
to follow any subsequent
state laws that were adopted
to allow -- that affected
utility asset sales.

And then finally the fifth
option is simply changing
out the word "substantial"

for a standard that is
necessary to the city's
ability to continue
providing effective utility
service.

It still leaves room for
interpretation as to what is
and isn't necessary, but
that word is a lot easier to
define and defend than the
word "substantial" is.

So that's what we've brought
forward for your
consideration today.

>> Mayor leffingwell: okay.

Let me just say I believe
the staff recommendation is
for option 1.

>> Correct.

and i
certainly favor option 1 for
several reasons.

We live in a world today where the electric utility business is changing rapidly.

Prices are fluctuating on different ways to -- the prices of natural gas, the price of solar hopefully is coming down.

Wind, we've seen change in the last year, dramatic changes in that, and I think the utility, even though we're not officially in a competitive posture, we've always acted -- we've always conducted business as if we were, and we do have a mandate approved by council now to remain in the bottom 50% of the utility structure going forward.

So I think it's very important that we have the flexibility for the council to make these changes promptly, as needed, instead of having to wait for an election.

I think it's essential, frankly, for the survival of the utility to be able to have this flexibility.

At the same time, we also have the requirement in here for a super-majority of council to make these changes.

The is kind of that safeguard in there.

So I think option 1 is my preference for the way we ought to go on this one.

>> Morrison: mayor?

council
member morrison.

I wanted to
comment.

I certainly get the issue of needing flexibility that -- well, that's desirable.

The concern I have is that I think that determining whether or not something is a substantial part of the utility may well be dictated by what your vision for the future of the utility is, and that can be not necessarily a simple cut and -- dried answer.

And that's why it may -- and I think we've had some examples over the past few years where we've had a very divided community on some of the issues that are related to the -- which -- I'm interesting in hearing more public input on the issue, but right now I am more inclined to go with the option that sends something like this to the voters.

So I'll be interested in hearing discussion over the next few days.

i

would just respond that i agree with you about the definition of the word "substantial," but I think it's kind of clarified a little bit in the last part where it uses the word "necessary" to the city's ability to provide continuing effective utility service.

I think that provides a little bit of context to it.

So I'm not very concerned about any ambiguity in the "

well, if i could just respond to your response, I agree that that does help to clarify it.

On the other hand, the examples that I'm thinking about, I think that an effective utility service, again, comes down to what your vision for the future of the utility might be and what your vision for the future of the community.

So while it's a step in the right direction, it's not clear to me that it's adequate.

council member spelman.

a question for council member morrison.

We've got an option -- one of the options available would give us an opportunity to put something before the voters but not a requirement to put something before the voters who have wanted to divest of that asset.

Are you talking about the option which would require a public election or would allow a public election?

>> Morrison: would require.

>> Spelman: okay.

we can have that discussion, but if you have sufficient direction now, we can put something on the table.

Of course it's not -- not set in stone.

It can always be changed.

>> Mayor, I think the council is going to have to decide on thursday which of the five options, if you want to move forward.

So that's when you're scheduled to take action on the items, thursday.

>> Mayor leffingwell: okay.

>> So all of the options are in backup, and whatever the motion is, it will incorporate one of the

options that are listed
there, so --

>> mayor leffingwell: okay.

I think that's clear.

>> Judd leaves, city law
department.

Speaking about the partially
related issue, it's a
companion issue to the
utility issue that andy was
speaking about, article 2,
section 5 of the charter
provides that the city
council can't sell, convey,
lease, mortgage or otherwise
alienate parkland without an
election.

And of course that's limited
to us over the years to
entering into license
agreements, interlocal
agreements.

What staff has proposed is
to provide kind of a middle
ground to allow leases to
other governmental entities
as long as the lease is for
a purpose consistent with
park purposes.

So occasionally I think a
lease is a little more
familiar instrument and it
would provide a little more
flexibility for council
while at the same time
limiting the use to park
purposes.

So it would make it easier in some cases to partner with some of our governmental partners for joint projects, and that's what staff has proposed.

>> Mayor leffingwell: okay.

Any discussion on that?

All right.

I think we're done, done with this, and we can go on to item b 2, which is potentially an action item.

To approve the second and third reading of an ordinance placing a charter amendment on the 2012 ballot for the so-called 8-2-1 proposition.

Do we have anyone signed up to speak on this?

No one signed up to speak.

Any comments from staff before --

>> yes, sir.

You may be aware that I discussed with you after first reading of this that there had been a previous version of this that had provided for term lengths and some other issues that were taken out of it to make it just about geographic representation.

But as a result of that, in the unlikely, perhaps, event that no other election-related provision that was on the ballot passed and only this provision passed, it would -- because of the way the charter is set up, it would have left us with no place in the charter that said how long council terms are.

And so just as a fall-back provision I suggested that we needed something in this amendment that would have provided -- that would provide for that eventuality, that nothing else passed and only this passed and we needed something in the charter to tell us what the term lengths were.

So what I did was I drafted a provision that's in this backup that defaults, essentially, back to the current three-year term, if nothing else passes, that addresses the issue of council term lengths.

What it says is, if this charter does not otherwise provide for term lengths for council members, this subsection applies.

The regular term of the mayor and council members is three years.

Council terms shall be staggered solve half [inaudible] as near as practical, the council is elected to each general election.

The council shall provide for ordinance necessitated by this regarding the length of council terms and the staggering of council elections.

Notwithstanding subsection a of this section, if another charter amendment that addresses only the issue of term lengths for council members or that addresses only the term lengths passes -- is approved by the voters should be in there, is approved by the voters, the other amendment supersedes this amendment on that issue regardless of the number of votes received by each amendment.

So that if one of the may to november or amendments passes, those would have effect.

And based on a few other conversations that we had, i think that we should probably also add something into this that provides that if in staggering the terms someone's term is -- someone who was elected to a term gets a short-term, that that term shouldn't be counted

against them for purposes of term limits going forward.

So I'd suggest adding a sentence before the last sentence of what I just read, that said, if a council term is shortened to create a stagger, that term shall not count as a term for purposes of article 2, section 3 of the charter.

that would be prior to the last sentence, which begins "notwithstanding subsection a"?

>> Yes, sir.

would you read the language again?

>> If a council term is shortened to create a stagger, that term shall not count as a term for purposes of article 2, section 3 of this charter.

>> Mayor leffingwell: okay.

Council member riley?

a question about that.

Sometimes when you're setting dates for elections, you can -- when you talk about years you can be off by just a matter of days, and if we -- if in figuring out the stagger we -- someone's term were

shortened by just a matter of days just because of the way the calendar fell, then under the wording that you provided, that wouldn't count as a term even if it were essentially a full-term, minus just a few days.

Is that a risk, that you could have a -- you could conceivably have a dmin must shortening of a term, which must be treated as a more substantial shortening of a term.

>> I'm trying to think if that situation would actually happen.

john that we need to get that straightened out right now but if you could on e.

>> If that turns out to be an issu -- if you could look at that more carefully before we make a final decision on that.

well, potentially we could be making a final decision in just a moment.

>> We have until the 16th to amend anything you pass, so -- that's right.

Good point.

>> So we can always amend things that have been adopted.

always
bring it.

>> Can always bring it back for a minor tweak on that point.

council
member morrison?

steiner,
maybe I've just become overwhelmed by all the things that are going on, but in the sentence -- in the sentence you read that you've added here where it says notwithstanding section a of this subsection, if another charter amendment addresses only the issue of term lengths or that addresses term lengths and election dates, do we have something on the agenda that only addresses term lengths?

We have term lengths and election dates and we have election dates only, but not term lengths only, i thought.

>> Yes, it should be only the issue of election dates.

Good catch.

>> [Inaudible]

>> okay.

Let's try again.

And I think -- sid just suggested that I could add the word "materially" before shortened and that would take care of the couple of days issues.

So if this charter does not otherwise provide for term lengths for council members this subsection applies.

The regular term of the mayor and council members is three years.

Council terms shall be staggered so that half or as near to half or as practical to the council as elected at each general election.

The council shall provide by ordinances for any transitions necessitated by this section regarding the length of council terms and the staggering of council elections.

If a council term is materially shortened to create a stagger, that term shall not count as a term for purposes of article 2, section 3 of this charter.

Notwithstanding subsection a of this section, if another charter amendment that addresses only the issue of election date or that addresses only the issues of term lengths and election

date, the other amendment supersedes this amendment on that issue regardless of the number of votes received by each amendment.

>> Mayor leffingwell: okay.

Anything further, council member tovo?

may I ask you to read the sentence again with notwithstanding subsection a of this section.

>> If another charter amendment that addresses only the issue of election dates or that addresses only the issue of term lengths and election dates is -- let's see -- is approved by the voters, the other amendment supersedes this amendment on that issue regardless of the number of votes received by each amendment.

>> Tovo: thank you.

>> Mayor leffingwell: okay.

That's clear as mud at this point.

No, just kidding.

Perfectly clear.

So further discussion or a motion on this item?

council member riley?

I'll move
approval.

moves
approval.

Is there a second?

Mayor pro tem seconds.

Discussion?

Council member martinez.

just want to
briefly state that I'll
obviously still be voting no
on this item.

I think continuing to honor
the work of the petition
gatherers is what is still
paramount for me in my
decision.

I'm not against a hybrid
system per se, but the
citizens' initiative, in my
mind, prevails council's
desires in this case, and i
will respectfully just
continue to vote no and hope
that we don't put a
competing item on the
ballot, because I think it
will cause both of them to
fail.

>> Mayor leffingwell: okay.

Council member spelman?

I agree
completely with council
member martinez.

If we put two single-member district proposals on the ballot, I think it extremely likely that both of them will fail, particularly given that we've had six chances to put single-member districts on the ballot and it's gone down six times in a row.

I think our best chance of getting single-member districts is to allow the citizens initiative to go forward and have that be the only one on the ballot.

mayor
pro tem.

mayor, I am
seconding this motion
largely for three reasons.

Number one, the naacp has endorsed the agr plan, and i fully respect that, and there will be significant discussions about the african-american representation with the 10-1 plan and also with the 8-2-1 plan.

There is a section of the african-american community who supports wholeheartedly the 10-1 plan because it's slightly, by approximately 4%, gives african-americans a potential district that could be elected.

At the same time, under the 8-2-1 system, having two

hybrids also impacts the african-american community in that it is much like the asian american community in that the population is declining and significantly declining in austin, and that to elect an african-american in the hybrid seats is almost the direct pt of what happens -- opposite of what happens in the 10-1 session.

I think this is a discussion that needs to be had by the entire community and I want to be part of that and we need to give voters that choice.

And I think that the naacp will be involved in it regardless of the outcome.

, But I fully appreciate what the citizens have done and I think that it was important for council to take action on that citizens initiative, which is why i supported that also.

Thank you, mayor.

and
I'm going to support the motion too.

With regard -- I certainly respect the citizens petition.

They have a right to petition and put an item on the ballot, and that's going

to happen, but I do have to note that the idea of the hybrid system was put out in the public, publicly proposed as something that we wanted to give citizens the ability to vote on this november way before that one.

So at this point I think obviously there's a division in the community or the exact format, and I think giving the voters a choice is very appropriate.

Council member martinez?

I just want to ask a procedural question as to why we're taking action on this item today.

Why was it posted today?

I believe I know why but i think some folks are very concerned that we're taking action today, potentially on third reading, is what it sounds like at this point, if five votes are cast in favor, it would pass on third reading today.

So can -- can you or the other sponsor explain -- the reason is because we -- we could not -- if it only passed on first reading this week, that would only basically give us one other opportunity, and that would

be the last opportunity on
the 16th.

it's already
passed on first reading,
hasn't it?

but
if -- to pass on more than
one reading requires five
votes.

It did not get five votes on
the first reading.

and so it was
passed today because if it
only gets four votes again
today --
it
will have to come back at a
later date, yes.

what is the
plan for that date if it
only gets four votes today?

Origin
origin
ally the thought was on the
16th.

We did -- do not have the
potential to bring it back
for third reading on either
the 7th or the 9th, we have
that potential, but that
gives us very little margin
of error.

and so with
that being said, I'm going
to respectfully and
passionately ask the mayor
pro tem to maintain your
position as you had on first

reading, because I think there's a lot of folks that still want to give input on this, and if we pass it on third reading today they're not going to be able to.

>> From a procedural perspective the council can always say, no matter how many votes you have, that it's only on second reading, so the council has that latitude as well, to say 7-0 but we're only passing it on first reading or we're only passing it on second reading.

So you do have that flexibility as well.

But it just depends on what the motion is.

mayor
pro tem.

in interest of council member martinez's statement, and I have just been flooded with calls, especially in the african-american community on both sides of this issue, especially as the only african-american representative, that I'm going to stick with my motion -- my vote, but I do ask tha only be on second reading.

is
that accepted?

>> Martinez: that is, sure.

>> Mayor Leffingwell: okay.

So the motion is now for second reading only, no matter how many votes it gets, that's the motion.

Let me say obviously I'm still going to support the motion.

I respect council member Martin and pro tem Cole's perspective, but we've had a lot of discussion on this.

So I look forward to any new information that may be brought forward on third reading.

Council member Tovo?

I'd like to ask for a clarification for our public of when that third reading might take place so that people can come provide input if they desire.

I would anticipate it would take place on August 7 at the work session.

>> Tovo: good.

So hopefully we can get that word out in the community.

and also anticipate that as we discussed prior to bringing this item up earlier today,

that this is not a public hearing item.

It is an item that does allow public comment on each and every reading, and i would propose that we limit debate to 15 minutes per side, as we agreed to earlier today, basically because we've had so much prior discussion, and if a lot of new information comes forward we can address that issue at the time.

>> Mayor?

council member morrison.

just quickly to follow up on council member martinez's question, I guess I'm still a little confused.

Could you help me understand why this is on for action today as opposed to, say, thursday at our regular meeting?

Is there any particular reason one way or another?

I assumed this was put on -- i thought I explained that, apparently pretty ineffectively.

It was in anticipation that it would require more than one reading.

but our --
origin
origin
ally we had talked about
voting today and then
thursday and then realizing
that the rules would
prohibit that we would have
to have another meeting to
vote on this.

so we could
have had it on thursday and
not today or today and not
thursday, and it just sort
of turned out that we left
it on today?

this
has been very much a work in
progress with all the
special meetings and the
decision was made sometime
ago to go ahead and post it
for today, and there has
been adequate and legal
notice for that.

>> Morrison: sure.

I appreciate that.

I want to echo some of the
comments that were made.

I think for me an important
choice that we're giving the
voters is really -- it boils
down really to the at-large
seats, being able to
represent interests that --
that are not necessarily
geographically-based.

Not all of our interests in
this city are geographically

based so I think
fundamentally that is a
critical piece of why i
think this has to be a
choice for the voters.

>> Mayor leffingwell: yeah.

We could get all into that,
and I agree with that
perspective.

This has been discussed
many, many times, the
various pros and cons of the
two different systems, and i
will just say the reason i
support the hybrid system is
because I believe in a not
complete way but in an
effective way it addresses
the pros and cons of both
systems.

With that, all in favor say
aye.

>> Aye.

opposed
say no.

>> No.

passes
on a vote of 5-2, with
council member martinez and
spelman voting no.

All right.

Now, I believe that council
member tovo has pulled
several items, and I don't
have the list of them here,
but --

I pulled a few but
in the interest of time i
think we better get to 122,
which is the short-term
rental discussion.

Do we have staff present to
talk about this, staff from
neighborhood planning and
zoning?

They're on their way.

Okay.

>> [Inaudible].

>> Yeah, thanks.

Council member riley pointed
out that I had added an item
to the work session agenda,
which is b 3, and maybe we
could just spend three
minutes talking about this,
and this is to discuss
appointments to the capcog
criminal justice advisory
committee.

So the city has an
appointment on this
committee.

The position is vacant.

I am new on capcog and I'm
not certain how these
appointments typically have
happened in the past, but i
guess I would request your
input on how we should
procedurally move forward in
agreeing on that
appointment, and if you have
specific recommendations,

that would be very helpful too.

And it sounds like we may not -- I don't think we've got the capacity to talk about this today, but maybe we could pick it up again at one of our meetings next week, and over the course of the week everyone can be thinking about who might be a good appointment on that criminal justice advisory committee.

>> Mayor pro tem?

I'm sorry, council member spelman council member tovo, what does the person on the advisory committee do?

unfortunately, i forgot to bring down the description.

I'll ask the staff to make that available to all of us so that we can have it in our head as we think through qualified candidates.

that would be a good idea, thanks.

is there any other particular input other than that that you're looking from us?

Toaf one of my colleagues who served on this has a sense how has arrived at these appointments in the

past, that would be helpful to know what the procedure typically is.

Is it the council appointee who serves who makes those recommendations?

Is it the council as a whole?

council member
morrison.

I'm trying to remember, because I think we did -- I did have occasion to be on capcog when there was an appointment, and i believe that -- formally, i believe, don't tie me to this -- formally it was done through our appointments.

And it was a learning experience for me because i wasn't really familiar at that point, of course, with what the advisory committee did, so I know that my office did a lot of reaching out to people that had been involved to get some good suggestions.

So I think that some work on that would be helpful.

could you clarify through the appointment system?

Who actually made the appointment?

Was it the council as a whole or a capcog representative or what?

I think it was the council as a whole.

Now, I'm getting a look from council member riley -- yeah, maybe -- if it's possible maybe post it for action at one of our multiple meetings next week and in the meantime I'll make sure that we get that information out the.

And mimi office reached out to possible candidates.

We haven't had success with the people we talked to so i would welcome your input on that issue.

just to clarify, when I said through the appointments, I mean our items from council where every week we have the appointment so it didn't require a special item to be posted.

>> Tovo: right.

It only would next week if we want to get it sorted out next week because we don't have a regular city council meeting.

you will plan to do that at the work session?

if everyone is in agreement I would like to get this resolved by next week.

council member
tovo, are you ready?

yeah, I'm ready and looks like we have staff here.

I also would like to distribute to my colleagues an item, a screen shot of the statesman last week.

I have some specific questions for staff, but i would also like to strenuously argue that given the confusion of last friday and the question of whether or not this item could proceed on thursday or whether it needed to be rescheduled to august 23, that we really have an obligation to the public and to the many stakeholders who have been involved over the last two years to postpone this item until the 23rd.

This, as you see in the screen shot that I just distributed, in the on-line piece where council member morrison and I had an op-ed as well as council member riley, there is an image to the left that indicates the city council is scheduled to consider an ordinance regarding the governance -- on the 23rd.

I have the print version with me.

Basically it has the same caption with the exception of council [inaudible].

So I do think we've got considerable confusion out there in the community.

With that, I do have a few questions for staff.

rusthoven, let me make my way to this document.

You were quoted in a blog article that ran in yesterday's statesman, or maybe today's, the excerpt of it appeared in the print version.

The blog edition had a little bit of an extended one in which you are quoted saying, I lost the newspaper notice for a couple hours on friday afternoon and that's not a reason to not do the vote on thursday.

Said jerry rusthoven, the city's manager of current planning, someone, in parentheses from a city council's office, who is opposed to the ordinance who was looking for a mistake to be made was looking for the newspaper notice.

So I guess -- I believe it was one of my staff members, and so that's particularly

why I'm concerned about this.

As you may know, we've had considerable public feedback about this issue, and some of the questions that I've heard from the community have been ones about notice.

Typically when we have a zoning change or something that is going to expand the uses within a category, we do have notifications that go out to particular homeowners, and they receive it in their mailbox and they have an opportunity to respond.

So at various points in this process we've been asked how has this been noticed to the community?

And we've gotten back information about the specific community members -- community groups who have been noticed and various other things.

And i, as a public official, but really all of us here are accountable to the public to answer questions about notifications.

So I guess I will just say that I take objection to your characterization that it was someone who was opposed, looking for a mistake.

We're accountable to the public, all of us here, and so when they have questions about notification, we have an obligation to bring them to you.

So given that, I believe that question was actually made -- was actually raised earlier during the week on wednesday, not friday.

So I wonder if you could talk us through the chronology of how this discussion evolved over the week.

>> Sure.

Jerry rusthoven, planning and development review.

On -- the chronology is late in the day on wednesday, 30-ish, if I recall correctly, I received a call from chad shaw, from the law department, who notified me that he received a call from bobby levinski and joi harden, that they were both on the phone at the same time, asking him what would happen if the newspaper notification had not been completed for short-term rentals.

As you know, we're required by state law and city law to place an ad in the classified section of the newspaper for a code amendment.

This turned out to have been done back in early may when the item was originally posted for a public hearing, I believe then later in may.

shaw called me, told bobby and -- from council member morrison's office and your aid that he would get back to them, and he called me and said, do you know why they're asking this question?

And I said, well, let me find out.

And they said that chad told me that you mentioned that they had spoken with almira, who works in the notification section of our department.

So I went downstairs and i asked almira, if she had been asked this question and she said, yes, she was asked hardin but she was confused as to what the question was, because she said, do you have a notice for short-term rentals?

And she didn't under that she meant the code amendment-related short-term rentals.

So I told almira, that was fine, if you have more questions direct them to me and I'll get them answered.

I went up the street to
Robert Heil, who is an
employee processing this
amendment.

Robert until recently has
been in charge of code
amendments, and I asked him
to see a copy of the notice.

So he first produced a copy
of the mail notice, the one
that goes out to all the
registered neighborhood
associations, and I said no,
I need a copy of the
newspaper notice and he
could not produce it.

Okay?

And he told me that he
didn't recall requesting it
and he doesn't -- didn't
think that I did.

And so obviously, you know,
I realize that we had a
problem.

I notified my boss
Guernsey and we
discussed it Wednesday
evening.

We, you know, discussed some
internal issues related to
that, some personal issues
related to that and also
discussed what it means to
not have the newspaper
notice done, namely that we
would have to start over,
redo first reading and redo
the public notice.

We prepared a -- an item, a memo for mayor and council that was sent over to city hall that had to go through a review of different offices over here before you all received it.

We made some personnel decisions back at the office that resulted in some people being reassigned as a result of this confusion.

So you guys received that item -- that memo -- that memo unfortunately didn't reach you all's office until friday morning by the time it was reviewed by all the people here at city hall.

On friday morning we decided to look into the other ordinance amendments that are also on your agenda for this thursday, although several of them we already had previously decided to postpone but we decided to look into them to see if they had the newspaper notification done as well, thinking that maybe possibly the same mistake had been made, you know, twice by the same person.

We then went and -- we discovered that the filing system was not the best, which is what [inaudible] in the first place, and so we went and looked in the invoices of the person who

handles accounts payable at our office.

The statesman bills us for every one of these notifies and it's their job to make sure it gets paid.

They send an affidavit of publication with each one of them so she's kept them for the past six years.

So we started going through that file, the file of basically bills from the statesman, and when the statesman sends us us the bill they cut out the notice, staple it to the form and mail it to us.

Through that file we actually found the notice for the short-term rentals.

So the person who told us that -- who worked for me who said that they did not do it actually did do it and did not recall, but he did do it.

My apologies, I know that this is embarrassing, quite frankly, to me, but, you know, I'm sorry, someone could not recall one of the many things that we do every single day.

It's a two inch by two inch piece of paper.

I have it right here.

Our office has a lot of paper.

It's easy to misplace something.

That being said this person should have been more organized and had a better recollection of what he, in fact, turned out to have done.

When we did find it the second time, we obviously wrote a new memo several hours after you all received the first one, that said, our bad, I guess.

We were mistaken in our earlier memo that said we made a mistake.

Turned out we did not make a mistake.

And so I believe you all received the first memo at 00 on Friday and you received the second memo I think somewhere between 5:00 and 6:00.

So that is my recollection of the events.

I appreciate you talking them through.

I'll just say for the record the other issue I take objection to in terms of the comments is that the way the issue was framed in this blog post makes it sound as

if the problem is really that the question was raised, not the fact that there were, as you've just described, really significant procedural issues related to this case.

>> I totally understand what you're saying.

filing of the notification and --

>> yeah, well what I was being asked specifically by that person from the statesman was I guess a line in the first memo that says, it has been brought to our attention a mistake was made.

So what we were being asked specifically was how was this brought to your attention.

And I guess, you know, i told them -- I told them that, you know, someone from over here called over there looking for it.

But independent -- again, that's part of what I feel -- you know, we were all elected to do was to be accountable to the public, when they have questions we ask them, and follow through until we have answers to them.

Thank you for talking us through the chronology.

I see we're very close to 00 and I know my colleagues probably have questions and I think that our community of people who are interested in this issue really need guidance about whether or not this is going forward on thursday or will be postponed, as I believe is appropriate, to august 23.

And I'll just explain, in case people aren't aware of it, between the time that that memo was released in the morning on friday, a group of people sent out a press release, they notified maybe ten media outlets.

There was at least one interview, I'm told, on klbj about the delay.

I know in talking with reporters that day about other issues, they all asked when is short-term rentals coming up?

I let them know there had been a memo released, and as we see in the copy i distributed and in the print 00 memo -- 00 memo information did not make its way through some of the same media outlets.

We had weekend publications that were repeating the 23rd date.

So I think it's incumbent upon us as -- if we want to have transparent discussion on this issue, to postpone it till august 23, and i hope I can get a consensus on that so that we can let people know what's going on on thursday.

well,
we can't do the postponement today.

no, I understand that, but we can certainly have a discussion that will offer community members guidance as to which direction we plan to go in on thursday.

And I have a slew of questions about short-term rentals, including those i submitted back in june, so i hope we can get to answering some of those, but this i think is the most pressing issue before us today.

i think about the most we can do is put out the word that there will be a request for postponement on this item on thursday.

>> Mayor?

council
member morrison?

I hope that we can hear other -- I hope other council members may be

inclined to let people know what they think they might be voting based on a request on thursday, because this has just been a mess.

It's been very inconvenient, and I guess, you know, this is obviously a very controversial item, and i think in -- in fairness to making sure we have a clean -- a clean debate about it, I would like to suggest that it really makes a lot of sense to postpone it to the 23rd.

I don't know that there's anything pressing to push us to do it on the 2nd right now.

I'd also like to bring up the idea of -- that's been suggested by a lot of folks, and that is reopening the public hearing, the point being that there's been no public hearing on the proposal that was passed on first reading.

And I want to bring up one other issue before I close up, and that is, from my point of view another reason to push it to beyond the 2nd is I am still waiting for what I think is going to be a very important piece of information to be part of this discussion, and that's the educational impact statement, and that statement back on the 26th,

we got a -- I think it was the 26th of June, staff said, yes, they will have -- they'll have that on the 28th.

My staff has asked for it three times, at least, since then.

It was last promised on the -- I guess it was promised to be made available on the 19th of July, still asking for it.

And frankly, once we get -- I have had some conversations with some trustees of Aisd that are very, very interested in this topic and are looking forward to seeing the EIS.

I promised to pass it on to specifically one that I had an extended conversation with.

And so I think that it's going to be important to talk about the EIS, to be able to think about it, to have the public see that I'm interested in talking to the -- see it.

I'm interested in talking to the trustees about it, I don't have it yet, and frankly I have a whole lot to do between now and Thursday morning, including a meeting tomorrow morning and getting ready for Thursday.

So I think it would be very difficult to be able to treat that with the seriousness that I think it needs to be treated with and be ready to really have that be part of our conversation on thursday.

So I -- I fully intend to support moving it to the 23rd.

council
member spelman?

>> Spelman: go ahead.

mayor
pro tem cole coal I have questions, both council member tovo and council member morrison spoke about extending the hearing to the 23rd, and I don't know if you just mean postponing and you're not certain about a future date or if you're committed to the 23rd because of the some of the events that happened or you --
I would be personally committed to the 23rd.

I think that having a known date is very important for everybody that wants to be part of the discussion.

but your known date is the 23rd?

uh-huh, since that's what was printed.

And I know -- the other thing I wanted to mention is that obviously we had a long public hearing about it before, and we don't really -- you know, my thought is if we were to reopen the public hearing, it's not like we need to hear all those arguments again, but to have some time for each side to comment on the proposal that's actually passed on first reading, would be my suggestion.

so
could I ask the city attorney, is there a provision for -- to reopen the public hearing on a limited basis for a certain amount of time?

>> For a limited basis?

Chad?

>> I was just going to mention that the requirement for public hearing has been satisfied at this point.

So if the council wished to hear public comment under different rules, so to speak, just as you mentioned I think on an earlier item, you could shorten times, you could give a limited time for each side, because you've already satisfied the statutory requirements.

It's up to you how you proceed, if you want to have public comment.

so
that is an option that could be considered and hopefully given favorable consideration?

[Laughter]
council member spelman?

thank you,
mayor.

Council member morrison, do you have a suspicion as to how much time each side is likely to need in order to give the revised version of the ordinance sufficient attention?

>> Morrison: not really.

I mean --
[laughter]
I would venture to say less than half an hour would be my guess.

>> Less than half an hour sounds like a lovely idea.

how
much less?

[Laughter]
29 minutes --
I was
going to say, if the council were to agree to a half hour limitation, if something comes up there's always a provision for the council to

ask speakers questions and so forth, to the extent necessary.

>> Spelman: okay.

Mayor, I also have a question of city staff.

rusthoven, what's involved in the educational impact statement that council member morrison was referring to?

>> I have had discussions with the austin independent school district planning department staff, and i explained to them what we were going through, they had seen it on tv.

I've heard about it from [inaudible] as well.

they feel your pain, I'm sure.

>> And so this person sent me some information, some data, some math that she had calculated, specifically looking at the 78704 zip code.

She chose to -- she understood mostly this zip code is talked about more than others so she decided to look at it and sent me over some information.

I double-checked her math and actually came up with more refined data from our

demographer as opposed to census data she was using, so I asked her can we use this for the number of households or census data?

And she said that was fine.

So I put together something that was cleaner than an email.

I figured you wanted something nicer than that.

So I put together something and sent it back to her, and quite frankly I am waiting for her okay to give this to you all as something jointly from us and them.

I can tell you right now if you'd like what it says.

I have it in front of me.

It's all ready to go.

I just don't feel without their okay, I don't feel 100% comfortable putting it out on joint stationery, if you will.

>> You can consider it unofficial.

>> Okay.

I'll tell you what it says.

It says we looked at the 78704 zip code.

census
data there's about 7200
homes in that zip code, 7200
single-family homes, i
believe the exact number is
7254.

Using the 3% cap we
determined that there is the
possibility for 216 vacation
rentals in the 78704 zip
code.

Using a district-wide
average, and this is not
specific to the zip code, i
think there's a good
possibility it's even lower
than in this particular zip
code -- but using the
4
children per single-family,
it nets us a total of 86
students.

I was informed by this
4
ratio of that, typically
half our primary school
students and half secondary,
primary being k through 5
and secondary is 6 through
12.

If we're discussing is
mostly the impact on
elementary schools because i
would think we're talking
about, you know, zilker and
barton hills elementary at
the time, the net effect
assuming half of the 86
students would be primary
students would be a net
effect of 43 students within
that zip code affecting the

elementary schools that are within that zip code, those specifically being barton hills, zilker, becker, dawson, travis heights and galindo.

So in her opinion that number of students had a negligible impact spread out across several different elementary schools, it would be 43 students spread out among those schools in that zip code.

So --

>> about six students per school, roughly?

>> Right.

If they were evenly distributed, yes.

is that six elementary schools?

>> Yes, it was one, two, three, four -- yes, six six elementary schools, so almost exactly 7.

>> Yeah.

and there are how many secondary schools in the 04 zip code?

>> We didn't get into that.

We focused on elementary, but I can certainly get that information for thursday.

we got over a thousand people in high school, so it will probably be equally negligible.

>> Her understanding was this had to do with the proposal august last year to possibly close some of the elementary schools so we were focusing on that side of the issue.

so we're talking about seven students out of becker, maximum and that won't have a material effect on whether becker stays open or not.

>> In her opinion that's correct.

I'm waiting to get confirmation on that.

>> Spelman: last question.

Is this the way we usually come up with educational impact statements.

>> The way we usually do, until it was recently pointed out we need to do them as code amendments as well on this particular ish issue is we do them with site plans and subdivisions over a certain threshold.

So we do a similar type analysis where we say, okay, this -- you know, apartment complex is going to have, you know, 400 units and it's

going to be 301 bedrooms and 102 bedrooms and a two bedroom generates this number of kids.

So it's a very similar thing.

We multiply the number of units times the number of estimated students per unit, and then we come up with -- then we compare that to the amount of kids in the school to say whether the school is above or below capacity and this project will add this many kids to the school who who conducts the analysis?

>> It's the school district.

We give the school district the raw data.

We get from the applicant how many units they're going to have and what types of units.

We send that to them.

They plug in their simple math and fill out the form and send it back.

Most of the work is usually done by them.

In this case I didn't have a -- you know -- a preset of information to send over to them because we hadn't done one for code amendment until now.

>> Spelman: right.

And so the way the educational impact statement was done in this case even though it's informal, it hasn't been completed yet, but informally the process has been the same as it is for the educational impact statement associated with the site plan, for example?

>> I would say it's similar in the determination it trying to figure out what number of children, you know -- in this case this amendment would impact or generate or not generate in this case.

and again, 04 was chosen because it's a worst-case scenario.

In other zip codes the effect would be worse than this.

>> 04 Was chosen because the reporters determined they had the highest concentration of short-term rental and also that was the location of the elementary schools where the closure issue has been raised.

>> Spelman: right.

Thank you.

could
I ask you, the 216 number,
is that the number that

would be affected by the ordinance that passed on first reading or does that INCLUDE HOMESTEAD STRs Also?

>> That would be if -- presuming that a maximum of 3% of the number of single-family households in the zip code became type 2 short-term rentals.

so this is all type 2, the 216 --

>> 3% cap would only apply to the type 2 rentals.

and 216 is the estimated number?

>> That's 3% of 7200, yes.

council member tovo?

I have a follow-up question about what you just said.

So the estimations talk about 43 students, and you said the conversation you had with the district talked about, you know, spread over those six schools, it wouldn't have -- in the conclusion you reached -- or the collusion aisd reached, a measurable impact on any one of those schools, but there's no certainty -- there were no provisions within the ordinance we're

contemplating that would require those to be spread out.

That's the whole -- you know, in my estimation, part of the discussion we've had is about clustering.

If 43 students -- if those short-term rentals cluster in one or two of those attendance zones, it could have a very measurable impact on any one of those schools.

And so I think, you know, that just -- I really do believe that we need that educational impact statement.

I hope the board has an opportunity to review it, and I agree that it would be very valuable if we had that information and the board -- the aisd trustees had an opportunity to reinstrument as well -- review it as well because it has serious implications I believe for some of our schools.

And while we have -- while we're talking about 78704, because that's where the highest number of short-term rentals are as per the auditor's report, there are some other neighborhoods in east austin and other areas that have also had enrollment challenges and their also I think in close

proximity to the downtown where they might become very popular for short-term rentals where this could be an issue that impacts their enrollment as well.

And so that was one of the questions that I had in my six -- the questions I submitted back in June about the eis.

There were some others, total housing stock by zip code, the number that would be permitted if the 3% limit enacted, but also I would like, if it's possible to have some comparison with the thousand foot limit that the planning commission recommended, how that might compare.

>> Sure, what I have for you today and I can hand out to you all, I have the total housing stock by zip code.

I have the 3% number calculated out of that total number.

I have the same information for the census tracts, because I read the newspaper [inaudible] that possibility as well.

submitted that this week so [inaudible] this oh you're answering this week's question.

>> I have that information for you all.

However, I'd like to put a caveat on that.

When I handed out to you all that we have not yet had a chance to refine this data to reflect solely the city of austin, so the zip codes, you know, straddle the city limit line, as to some of the census tracts.

The census tracts being smaller than the zip codes, I think it will be easier to extract city information because we have more discrete areas.

These numbers are high because they include outside the city limits but just trying to get the information to you quickly, so I have census data and zip code data.

I'm unable to calculate the number of -- permitted under the planning commission's thousand foot limit because quite frankly I do not know where the short-term rental would be to establish a thousand-foot area around it of where they could not be.

So not having that information I don't know how it's possible to calculate, you know, where the short-term rentals would be, where the thousand foot

circles would be and how many would fit within the city limits of austin.

So I think that that information I simply cannot -- cannot calculate.

With regard to the other questions, if it's okay with you if I go through them real quick?

I guess it's really up -- I don't have a sense of how long we're going to be here today and how many more issues we have.

I'm happy to talk about them.

I guess my interest is in getting answers back in some fashion, so if it's better to do it outside the meeting that's fine.

We'll certainly have a lot of opportunity to talk about it on -- let me mention one thing before you we go on.

It will be quick and it's a follow-up to your question.

Seven students per school is an average, it could be more than that, could be less than that.

I guess the important number to help in making that judgment would be from the

school board, how many --
how many would it take?

Would it take 15 to make a
difference?

Would it take 20?

That would just be
interesting information to
have.

Council member --

>> I had the exact same
thought.

We use the term measurable
impact.

Did somebody ask the school
if all 43 students were at
one school, would that be a
measurable impact?

Did we ask that question?

>> I will ask that question
when I --

>> and also, when you
your numbers for
students, does aisd have a
ratio of students that come
from multifamily housing?

Because I notice this is
simply single-family, and
there's thousands of
multi-family units.

>> They do.

We use a different number.

When they do the calculation doing aid for a project as opposed to a [inaudible] amendment.

They use a different number, a lower number.

It changes depending on the number of bedrooms in a multifamily unit.

However, here, for the purpose of the short-term rental ordinance the only thing that we're addressing is single-family houses, so we only used that point -- it's a lower number for multifamily, .4.

can you give us some data on how many students in that same zip code might come from multi-family housing as well?

>> I'll ask the district for that information.

>> Mayor?

council member morrison.

still on the topic of the eis and the multi-family, which I think is very important, am i correct that what's on the table now -- with what's on the table now it would be allowed in multi-family without regulation?

>> Yes.

, so I think
with regard to the eis,
obviously with no cap it
would be difficult to guess
how many of the multi-family
units would become permanent
short-term rentals.

So it might make sense to
get some calculations on
impacts to the school
population in different
ranges of how many
multi-family move toward
short-term rental.

>> Okay.

that's an
impact too, and we don't
know what number to use.

You might use, you know, 2,
5, 10 and 20.

I don't know, you pick some
numbers that might be a
range to give us different
idea.

>> I do know what the
multi-family -- it differs
based on the number of
bedrooms in a multifamily
unit.

They presume fewer children
for a studio or efficiency
than they do in a two
bedroom, that kind of thing.

so it gets a
little complicated but i

think that could well impact the measure.

And I guess -- I know we had some information, I thought I even had some backup information from one of our 4 was primary elementary age 4 per single-family house, but you said -- your information is that's total kid, no matter what age.

So I'll go back and check that.

>> I'll double-check that as well with the person i was talking to her but my conversation with her she said it would be half of that.

They presume half-and-half.

council member riley?

jerry, we've been talking about the prospect of affecting 43 students in a zip code but at the same time we've -- there's also been some discussion about shifting to a focus based on census tracts, and so would it be possible to provide a similar analysis based on census tracks, which i presume would entail looking at how the -- the schools relate -- the school location relates to census tracks and how many schools

you might have per census track to identify what the impact would be on a per school basis if we shift to a census track focus?

>> Yes, we can look into that.

I'll see if the school district is able to provide that information for us by thursday.

I would agree that if you switched the cap from the zip code to the census track you would reduce the likelihood that the maximum number of students would be affecting a single school because obviously you'd reach the cap faster within a census track than you would -- right, so in ords you'd eliminate the possibility of affecting 43 students at one school.

>> Yes.

>> Riley: okay.

council member tovo.

I guess it would also be useful to see how the census tracks compare to attendance zones and I know we've got maps of both, so that would be another valuable piece of information.

>> When we're done here, i
have the map and census
tracks for you city-wide.

So I'll produce the
information for you.

I guess -- I know
we're about to conclude
here, probably about to
conclude.

I would just invite my
colleagues, if you have any
initial thoughts to respond
about the question of
postponing to august 23.

I think it would be useful
to get background to that --
back around to that question
again.

Again, to -- I understand
that we can't take the vote
until thursday, but I would
like to provide the
community with some guidance
about whether or not they
should be ready for this
issue to move forward on
thursday or whether we're
going to, you know, agree
that there's been
substantial enough confusion
about the issue that --
i
think everyone understands
your request, co
member.

>> Mayor?

council
member spelman.

from a formal point of view I understand the concern about the notice issues, and although I'm somewhat concerned that there was some organization that held a press conference immediately upon hearing that the vote may be postponed, and announced it to everybody, I'm also aware at least of my own neighborhood list serve, there has been a lot of discussion to the extent that nothing else gets discussed in the hyde park with anything other than short-term rentals, i suspect the same thing is true in other neighborhood lists and there's a whole lot of other means of communication available to people, neighborhood meetings and over the fence communication and listening to us here and looking at the newspaper, which I hope eats at least a little bit of crow for having printed august 23 somewhat prematurely.

There's a lot of opportunities for people to understand what's going to happen, and this is, of course, our original plan, was to vote on this on thursday, not on the 23rd.

So I suspect that most people would expect us to vote on it thursday and not on the 23rd.

So it's my strong preference, unless some further information becomes available for us to vote on this as expected on thursday.

One last point.

Given that the educational impact statement is going to be relatively simple, although one could reasonably argue that the educational impact statement does not appropriately take into account the clustering issue, there's no reason to expect that it would given the way the ordinance is currently written based on zip code.

We've educational impact statement based on zip zip codes.

I think it's a reasonable expect from the city staff and the school district staff to come up with.

If you want to remake it and assume different levels of clustering based on whatever empirical information is available a I think you're free to do so and it wouldn't be too difficult.

And I'd like to hear what you come up with.

But I think we can all do that on our own and I don't think there's any reason to

postpone action beyond
thursday.

Although that said, I think
that since we are now
considering a substantively
different ordinance, dan was
before the council -- than
was before the council a few
weeks ago, it only makes
sense to open a public
discussion at least for some
short-term, and I'm very
appreciative of council
member morrison's suggestion
that less than a half hour,
29 minutes at the maximum,
would be sufficient for us
to cover the most important
issues given how much
discussion this has been so
far.

>> Cole: mayor?

and i
would note that in defense
of the paper, they published
on page b 2 this morning,
the revised -- revised
revised date.

Okay.

Mayor pro tem?

I'm very
sympathetic to council
member tovo and morrison's
concern that there's
confusion about when we
would have this, but i
received a notice in my --
at my home in my door on
friday evening from one side
of this issue, and i

received a mailer saturday morning, and so I'm not as concerned that the particular stakeholders are confused about whether we are going to have this discussion on tuesday.

It only comes up in the context of other people who might be mildly interested in the matter, and I think that with the correction in the newspaper, coupled with our discussion today and the proper posting being done, that we are okay for tuesday.

-- Thursday.

>> Mayor?

council member martinez.

yeah, using the logic in a previous adopted item this morning, there's been plenty of discussion, and I doubt there's confusion.

The people that care about this issue know exactly what's gone on.

They're upset and/or embarrassed.

They know that this is coming this thursday, and the word will get out there.

It's been discussed quite significantly, and so my

concern isn't giving public input.

My concern is are we going to limit the council's discussion on this as well, because that's going to take hours.

And I -- it's not a joke.

I'm dead serious, because I -- I see and read, just like you all do, that there are multiple amendments coming, and so my question is going to be, if there are amendment that are going to be asked of us to be considered, will those council members offering those amendments support this item if those amendment are adopted?

And if the answer is no, I'm not going to support amendments.

I mean, I don't appreciate that tactic of trying to amend an item just to vote against it in the end.

So that will be a question i ask if amendment are made on thursday.

and
council member, I know you know this, but just for everyone that's -- it's a parliamentary question, there is a way to limit council discussion also.

It's a motion to call a question, which requires a second and two-thirds majority to pass.

And that's on any item, any item, not just this one.

Council member tovo?

well, I appreciate the suggestion -- or the discussion about limiting council discussion on this issue.

I'll just say, we have -- i mean I have a slew of questions some of which have been out there pending for a while, and I will be asking them on thursday.

So, you know, we can -- we can try to limit our discussion, but I think we all have an obligation to explore this issue fully and to look at some of the information staff provides and discuss it as a council body.

further clarification, the two-thirds majority is five votes, and it is not a debatable motion.

So the vote has to take place immediately after the second.

Anything else?

Mayor pro tem.

mayor, I would like
to ask -- or put it on your
mind, I guess we can't take
action on it, that we set
the public hearing on the
bond election for a time
certain of 6:00.

I just want to put that on.

>> Mayor leffingwell: okay.

Would you do me a favor and
put that in writing to my
office and we'll --

>> cole: I will.

I just wanted to put that on
everybody's mind.

join
you on that.

>> Mayor?

imheb
morrison.

I hoped we'd
have time to talk about the
civic service [inaudible]
sponsored by myself and
council member spelman and
martinez, and clearing more
discussion needs to happen
on that, including with our
[inaudible] and our friends
in manage.

I wanted to make sure -- i
received -- I received a
memo and I gather my
co-sponsors did also, from
afsme in response with
comments and thoughts on the

city manager's extensive memo, and I wanted to make sure that that memo is available to all of my colleagues.

So I don't know, did you -- did you send it to everybody?

Okay.

So I would encourage them to read that, and I hope that we can sit down with manage and afsme and walk through some of these things and folks from my co-sponsor's office in the next day.

>> Mayor leffingwell: okay.

If there's nothing else i think a lot of folks have prior commitments, so I know there are other items that would like to be discussed but we're out of time today, so without objection we
22
p.m.

[Rumbling]
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